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2 IN THE CIRCUIT COURT

3 FOR WASHINGTON COUNTY, MARYLAND

4 x

5 NANCY J. CLINE, Personal Representative of

6 THE ESTATE OF GLEN H. CLINE, JR.,

7 Deceased, and

8 for the Use of Terry Tunney, |

9 **ORIGINAL**

10 Dorothy Miller, Brian Cline and Rick

11 Cline, children of said Deceased ~ And

12 JOSH H. CLINE, ~

13 Plaintiffs |

14 v. |

15 Case No.

16 JOHN JAMES CHRISTY | 21-C-02-013503

17 And |

18 AGAPE HARVESTER CHURCH, INC., |

19 Defendants

20 x

21 Deposition of THOMAS JOSEPH BOWERS

22 Hagerstown, Maryland

Friday, January 31, 2003

22 **L.A.D. REPORTING COMPANY, INC.**

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NATIONWIDE COURT REPORTERS AND VIDEOGRAPHERS

1 MR. BALLANTINE: We're going through them one
2 at a time.

3 BY MR. BALLANTINE:

4 Q The first one is Mr. Manning's conclusion
5 that at the time of impact Mr. Cline was in the travel
6 portion of eastbound 70, do you agree with that
conclusion?

8 | A Yes.

Q Do you agree with the conclusion that he
9 was stooped down?

¹⁰ See, for example, the discussion of the 1992 Constitutional Convention in the *Constitutional Convention of 1992: The Final Report* (1993).

11 A Either stooped or kneeling, yes.
12 Q Are there conclusions of his that you don't
13 agree with?

13 A The only problem I have with this report
14 here is a statement he makes about how far over the
15 vehicle could have parked on the shoulder of the
16 roadway, meaning the Cline vehicle.

17 Q He says it could have been, as I recall his
18 report, another two to three feet closer to the
19 guardrail?

20 A I believe the way he stated, he said that
21 at the place of the accident the shoulder was

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1 nine-and-a-half feet wide. The vehicle that
2 Mr. Cline was parked there, the F Ford 150 was six feet
3 seven inches wide. He stated that he could park that
4 vehicle over far enough on the shoulder that he would
5 have had three feet between the edge line and that
6 vehicle.

7 This is cutting inches really, really
8 tight. If that -- I agree with Mr. Manning's
9 measurements. I also took measurements out there and
10 verified his measurements. And the source that he
11 got the measurements of the width of the pickup truck is
12 a reliable source, I have no problem with that.

13 But there is a one-inch disparity there. The
14 shoulder is nine feet six inches wide, of course the
15 vehicle is six feet seven inches wide so that
16 actually gives him two feet 11 inches. Mr.
17 Manning says approximately three feet.

18 However, it is my opinion that would be
19 unreasonable for him to park that vehicle on the very
20 edge of the roadway because it is adjacent to the edge
21 of the shoulder is a guardrail which is the same --
22 which is located at the same spot so that

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1 DEPOSITION OF THOMAS JOSEPH BOWERS
2 CONDUCTED ON FRIDAY, JANUARY 31, 2003

3 vehicle would have to been touching the guardrail. Q 22

4 In order for it to be approximately three
5 feet?

6 A Yes.

7 Q The state police photographs show the
8 vehicle with the left tires on the white line
9 dividing the right-hand eastbound lane from the
shoulder, do you agree with that location?

10 A Yes.

11 Q I interrupted you and I'm sorry. If you would go back
12 to telling me exactly what else you have reviewed or done
13 in preparation for this case.

14 A I made several site investigations myself, where
15 the accident site actually occurred. I conducted two
16 accident site visits during the daytime and two at
17 nighttime. No, actually three at nighttime, one actually
18 drove through when I was someplace else while it was raining.

19 I thought I would just take a look at this while
20 I'm here. The last time I visited the accident site was
21 last night. And let me tell you why I did that. I
22 looked outside and saw that it was lightly

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2 snowing and the street was wet in front of my house so I
3 wanted to go out there and view the accident site
4 myself, take a drive through it and conduct certain
5 tests at the accident site while actually the street was
6 wet without being snow covered.

7 Of course I know this is a different time of
8 year but last night the roadway was wet. I wanted to
9 take a look at that scene while the roadway was wet.

10 Q What test did you conduct?
11 A I took a folding chair, regular standard
12 small folding chair and put a shirt which is actually to
13 me a little bit darker in composition than the shirt
that Mr. Cline was wearing at the time of the accident.

15 Q That shirt you brought with you is not
Mr. Cline's shirt?

17 A No, this is not Mr. Cline's shirt. This is
18 actually one of my old shirts that I found. And I
19 draped it across the folding chair on the shoulder of
20 the road where the accident occurred, not in the travel
 lane, I actually put the shirt on the folding

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1 28

2 you're talking about causation or what.

3 BY MR. BALLANTINE:

4 Q Well, what typical opinions do you include
5 in your reports when you reconstruct an accident?

6 A It all depends on what I'm asked to look
7 for. In this case here I was asked to look
8 for causation factors.

9 What do you think caused the accident?

10 MR. FREEL: Same objection.
11 THE WITNESS: I came to the conclusion that

12 there were two primary causes to this accident. Most
13 accidents have more than one factor which contributed
14 to the occurrence of the accident. There's usually more
15 than one failure.

16 In this case there are two primary failures
17 that caused this accident. There were more failures but
18 two primary failures that caused this accident. BY MR.
19 BALLANTINE:

20 Q What are they?

21 A One is that Mr. Cline placed himself in the
22 path of travel of the Christy vehicle.

Q You believe that's a cause of the accident?

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1 A And failed to observe the approach of the
2 Christy vehicle.
3

4 Q All right.
5

6 A I also believe that Mr. Christy failed to
7 observe Mr. Cline in his path of travel even though he
8 was observable.
9

10 Q You believe he was observable based on the
11 test you did last night?
12

13 A No, not only because of that.
14 Q What other reasons lead you to believe that
15 Mr. Cline should have been observed by Mr. Christy?
16

17 A When I was reviewing this report here there
18 was a handwritten statement that was made by a witness,
19 he actually didn't observe the accident but he -- his
20 name is Mr. Herko, John Herko.
21

22 He stated -- this is not verbatim but he
23 stated that he was eastbound on Interstate 70 and
24 noticed that there was a man having a problem with a
25 vehicle on the road. He went to the next interchange,
26 turned around and came back to help him.
27

28 When he was in the opposite lane heading
29 westbound he also said in his statement that he seen
30

